

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANIMAL WELFARE INSTITUTE
and FARM SANCTUARY

Plaintiffs

18-CV-6626

vs.

UNITED STATES DEPARTMENT
OF AGRICULTURE and
FOOD SAFETY AND INSPECTION SERVICE

Defendants

NOTICE OF MOTION

PLEASE TAKE NOTICE that defendants, by their attorney, Michael S. Cerrone, Assistant United States Attorney, for James P. Kennedy, Jr., United States Attorney for the Western District of New York, hereby moves this Court for an order: (i) pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), dismissing plaintiffs' complaint for lack of subject matter jurisdiction and failure to state a claim; or, in the alternative, (ii) pursuant to 28 U.S.C. § 1404(a), transferring this case to the District Court for the District of Columbia; and (iii) for such other and further relief as the Court may deem just or proper. This motion is supported by the accompanying Memorandum of Law.

PLEASE TAKE NOTICE THAT the motion will be heard at the United States Courthouse, 100 State Street, Rochester, New York at a date and time to be set by the Court.

PLEASE TAKE FURTHER NOTICE that defendant intends to serve and file reply papers and, therefore, any papers in opposition to this motion are due fourteen days after service of this motion, pursuant to Local Rule 7(b)(2)(B), unless otherwise ordered by the

Court.

DATED: Buffalo, New York, September 26, 2018

JAMES P. KENNEDY, JR.
United States Attorney

BY: S/Michael S. Cerrone
MICHAEL S. CERRONE
Assistant U.S. Attorney
U.S. Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716-843-5851
Michael.cerrone@usdoj.gov